

¹ 5 U.S.C. § 8101 *et seq.*

employment, including casing mail and placing it in mailboxes/slots. She noted that she first became aware of her conditions on January 10, 2001 and realized their relationship to her federal employment on January 29, 2001. OWCP accepted the claim for bilateral carpal tunnel syndrome. Appellant underwent carpal tunnel release on March 20, 2001. OWCP paid her wage-loss compensation on the periodic rolls as of June 16, 2002.

In a letter to appellant dated August 14, 2017, OWCP informed her that periodic medical reports were required for all cases for which compensation is paid. It requested that she have her physician respond to a series of questions and provide a detailed report to OWCP within 30 days of the date of the letter. OWCP sent the same letter to appellant on August 6, 2018. It subsequently received a September 14, 2017 medical report by Dr. Jacob Cherian, an attending internist, who noted that appellant presented for her annual workers' compensation evaluation. Dr. Cherian reported examination findings and listed current chronic diagnoses of benign essential hypertension, pure hypercholesterolemia, reflex sympathetic dystrophy (RSD) of the upper limb, disturbance of skin sensation, joint pain, chronic pain syndrome, esophageal reflux, fibromyalgia, bilateral carpal tunnel syndrome, and adhesive capsulitis of the shoulder. He provided an assessment that appellant had chronic pain syndrome due to her work-related injury.

In a letter dated August 21, 2018, OWCP informed appellant that there was no current medical evidence in the case file to establish her entitlement to continuing compensation benefits. It requested that she submit a current detailed medical report from an attending physician addressing her employment-related residuals and disability. OWCP also requested that the physician complete an accompanying work capacity evaluation (Form OWCP-5c), indicating whether appellant was able to return to work. Appellant was afforded 30 days to submit the requested information.

On January 31, 2019 OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Rafael A. Lopez Steuart, a Board-certified orthopedic surgeon, for a second opinion to determine whether she continued to suffer from residuals and/or disability causally related to her accepted work-related injury.

Dr. Steuart, in a February 27, 2019 letter, noted his review of the SOAF and appellant's medical records. He also noted her current complaint of intermittent numbness in her thumb, fingers, hands, and elbow. On physical examination Dr. Steuart reported full motion of both wrists in pronation, supination, flexion, and extension. He also found normal symmetric sensation of both hands and fingers, a bilaterally negative Phalen's test, and all tendons and ligaments intact. Dr. Steuart advised that there were no objective findings on physical examination and there were no diagnostic tests available for his review. He recounted that appellant reported that she had undergone left carpal tunnel release without improvement of her symptomatology. Dr. Steuart found that the accepted work-related bilateral carpal tunnel syndrome condition had resolved based on the objective evidence, although appellant remained symptomatic. He concluded that there was no need for further medical treatment. Dr. Steuart opined that appellant was capable of returning to her date-of-injury city carrier job. In an accompanying Form OWCP-5c, he found that she could perform her usual job with no restrictions.

By notice dated April 4, 2019, OWCP advised appellant that it proposed to terminate her wage-loss compensation and medical benefits based on Dr. Steuart's opinion that the accepted

employment-related condition had ceased without residuals or disability. It afforded her 30 days to submit additional evidence or argument challenging the proposed termination.

OWCP subsequently received additional medical evidence from Dr. Cherian. In a September 20, 2018 report, Dr. Cherian noted that appellant presented for her annual workers' compensation evaluation. He noted her continuing complaints of chronic pain in her back, shoulders, and arms. Dr. Cherian discussed examination findings and reiterated his prior chronic diagnoses of benign essential hypertension, pure hypercholesterolemia, RSD of the upper limb, disturbance of skin sensation, joint pain, chronic pain syndrome, esophageal reflux, fibromyalgia, bilateral carpal tunnel syndrome, and adhesive capsulitis of the shoulder. He provided an assessment that appellant still had chronic pain and was unable to perform strenuous or repetitive work.

In an undated attending physician's report (Form CA-20), Dr. Cherian noted a history of the October 10, 2001 employment injury after which appellant experienced chronic pain in her back, shoulders, and arm. He reiterated his prior diagnoses of bilateral carpal tunnel syndrome and RSD. Dr. Cherian checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by the described employment activity. He opined that appellant was totally disabled from 2002 to the present.

By decision dated October 11, 2019, OWCP terminated appellant's wage-loss and medical compensation benefits, effective October 13, 2019, finding that the medical evidence submitted was insufficient to outweigh Dr. Stewart's opinion.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.² After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.³ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁴

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.⁵ To terminate authorization for medical treatment, OWCP

² See *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

³ See *R.P.*, *id.*; *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁴ *K.W.*, Docket No. 19-1224 (issued November 15, 2019); see *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁵ *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.⁶

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective October 13, 2019, as she no longer had residuals or disability causally related to her accepted employment condition.

OWCP terminated appellant's wage-loss compensation and medical benefits based on the February 27, 2019 report of Dr. Steuart, the second opinion physician. The Board finds, however, that OWCP improperly accorded the weight of medical evidence to his second opinion report.

Dr. Steuart noted his review of the SOAF, indicating his understanding that appellant's claim was accepted for bilateral carpal tunnel syndrome. He related her account of experiencing no improvement of her symptomatology following her 2001 left carpal tunnel release. Dr. Steuart indicated that appellant's physical examination revealed no objective findings of the bilateral carpal tunnel syndrome resulting from her employment. He noted, however, that there were no diagnostic tests available for his review. Dr. Steuart opined that the accepted work-related condition had resolved, that appellant could return to her date-of-injury city carrier position with no restrictions, and that there was no need for further medical treatment.

The Board finds, however, that Dr. Steuart's opinion was conclusory in nature and did not contain sufficient medical reasoning to establish that appellant no longer had residuals or disability due to her accepted employment injury.⁷ In assessing medical evidence, the number of physicians supporting one position or another is not controlling, the weight of such evidence is determined by its reliability, its probative value, and its convincing quality.⁸ The factors that determine the probative medical evidence include the opportunity for and thoroughness of examination performed by the physician, the accuracy or completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested, and the medical rationale expressed by the physician on the issue addressed to him by OWCP.⁹ Once OWCP undertook development of the record, it was required to complete development of the record by procuring medical evidence that would resolve the relevant issue in the case.¹⁰

⁶ *K.W.*, *supra* note 4; *see A.G., id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake, id.*

⁷ *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *A.G.*, Docket No. 20-0187 (issued December 31, 2020); *see J.W.*, 19-1014 (issued October 24, 2019); *S.W.*, Docket No. 18-0005 (issued May 24, 2018).

⁸ *D.W.*, Docket No. 18-0123 (issued October 4, 2018); *Nicolette R. Kelstrom*, 54 ECAB 570 (2003).

⁹ *A.G.*, *supra* note 5; *James T. Johnson*, 39 ECAB 1252 (1988).

¹⁰ *See J.F.*, Docket No. 17-1716 (issued March 1, 2018).

The Board finds that Dr. Steuart's report lacks sufficient medical reasoning to establish that appellant's accepted bilateral carpal tunnel syndrome had resolved without residuals. While Dr. Steuart opined that her accepted condition had resolved and that she could return to her date-of-injury position with no restrictions based on the objective evidence, he noted that there were no diagnostic studies available for his review. Moreover, he failed to explain why appellant no longer had employment-related residuals although she remained symptomatic. Rationalized medical evidence must include rationale explaining how the physician reached the conclusion he or she is supporting.¹¹ Accordingly, the Board finds that Dr. Steuart did not provide an opinion with sufficient medical reasoning to establish that appellant no longer had residuals or disability due to her accepted employment injury.¹² Dr. Steuart's second opinion report is therefore of diminished probative value.

The Board thus finds that OWCP failed to meet its burden of proof.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective October 13, 2019.

ORDER

IT IS HEREBY ORDERED THAT the October 11, 2019 decision of the Office of Workers' Compensation Programs is reversed.

Issued: April 8, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹¹ *B.B.*, Docket No. 19-1102 (issued November 7, 2019); *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹² *Supra* note 7.